

Governor's Office,
Austin, Texas, August 19, 1913.

To the House of Representatives:

House bill No. 1, making appropriations to pay salaries of judges, and for the support of the judicial department of the State government, for two years beginning September 1, 1913, and ending August 31, 1915, and declaring an emergency, was received in the Governor's office on the 8th day of August at 4:45 p. m. The same has been filed with the Secretary of State on this date, with approval, except the item under the head of "Judiciary" for "expenses of district judges and district attorneys as allowed by the Acts of the Thirty-second Legislature, Chapter 27, including amounts accrued since June 6, 1911, the date said law became effective, \$19,000 for the year ending August 31, 1914, and \$19,000 for the year ending August 31, 1915." Of the \$19,000 appropriated for each of the fiscal years named, the sum of \$14,000 for each of the fiscal years has been approved, and the sum of \$5000 for each year has been disapproved. The effect of this action is to reduce the appropriation from \$19,000 to \$14,000 for each fiscal year, respectively.

The item under the head of "Judiciary" for "expenses of attached witnesses and witness fees and mileage allowed witnesses in felony cases who reside in counties other than the counties in which the cause is being tried, \$180,000 for each of the fiscal years ending August 31, 1914, and 1915, respectively," is objected to in part. I have approved \$160,000 of said item for each of the said fiscal years, and have disapproved of \$20,000 in each item for each fiscal year.

The item under the head of "Judiciary" for "fees and costs for sheriffs, clerks and attorneys in felony cases, \$340,000 for each of the fiscal years ending August 31, 1914, and 1915," respectively, is objected to in part. I have approved \$320,000 of said item for each of the said fiscal years, and have disapproved of \$20,000 in each item for each fiscal year. The effect of this action is to reduce the appropriation in this item from \$340,000 to \$320,000 for each year.

In approving a portion of the item and disapproving of a part of same, I am advised by the legal department of

the State government that I am acting within the authority of the Governor as conferred upon him by the Constitution of the State. In an opinion to the Comptroller of Public Accounts, under date of March 8, 1913, concerning a former veto of one-half of the appropriation made by the Thirty-second Legislature for the Attorney General's Department, the present Attorney General discusses the subject at length, and I extract the following statement from his opinion:

"We desire here to call your attention to a construction of veto messages, which has been approved, and which we think, in effect, is the same as the construction placed upon the veto of the Governor in this particular instance. It seems to us that the proper construction of the opinion of the Supreme Court in the case of Fulmore vs. Lane is, that while the Legislature made an appropriation of \$83,160 to the Attorney General's Department, that the Governor cut this appropriation in two, so that finally it was only \$41,580. This, as we have previously said, is undoubtedly the effect and holding of the Supreme Court of the State. There was, of course, but one appropriation for the Attorney General's Department, and the effect of the Governor's action was to cut this appropriation in half. So that by whatever principle of reason one may pursue, the final conclusion must be that the effect of the Governor's veto was to reduce the original appropriation by one-half. This veto has been approved by the Supreme Court of this State, nor is this position without additional authority to support it.

"In the case of Commonwealth vs. Barnett, 199 Pa., 162, the question under review was an appropriation bill which had been vetoed in part by the Governor. The Constitution of Pennsylvania is similar to our own, which authorizes the Governor to disapprove any item or items of any bill making appropriations of money, embracing distinct items, etc. The appropriation bill, when submitted to the Governor, made an appropriation of \$11,000,000 for two years for the support of the public schools of the commonwealth of Pennsylvania. The Governor approved the appropriation to the extent of ten million dollars and disapproved one million dollars thereof. The Governor of Pennsylvania, in passing upon this appropriation bill, said:

"I am compelled to reduce the ap-

proprietion to the common schools \$500,000 a year, amounting to \$1,000,000 in two years. * * *

"The authority of the Governor to disapprove part of an item is doubted, but several of my predecessors in office have established precedents by withholding their approval from part of an item and approving other parts of the same item. Following these precedents, and believing that the authority which confers the right to approve whole of an item necessarily includes the power to approve part of the same item, I, therefore, approve of so much of this item which appropriates \$5,000,000 annually, making \$10,000,000 for the two years beginning June 1, 1899, and withhold my approval from \$500,000 annually, making \$1,000,000 for the two school years beginning June 1, 1899.'

"The above and foregoing are substantially the facts upon which the opinion of the court in the case named is based. The court held that the Governor had the right to execute the veto as he did execute it and that the appropriation was reduced from \$11,000,000 to \$10,000,000.

"In view of this authority and in view of the holding of the Supreme Court of this State, which in effect in this particular instance is the same as that of the Pennsylvania court, it would not be proper for this department to give any other interpretation to the effect of the Governor's veto."

In order that the Legislature may have the benefit of the Attorney General's full opinion, I attach a copy of same hereto, and make it a part of this message.

Respectfully submitted,
O. B. COLQUITT,
Governor of Texas.